

spacer with a bone fastener, the second spacer having different mechanical or chemical treatment properties than the first spacer.

47. The intramedullary nail assembly of claim 45, wherein the different mechanical or chemical treatment properties are selected from the group consisting of: different hardness, different rates of absorption, different active agents and different amounts of active agents.

REMARKS

This Preliminary Amendment is submitted to further define the invention prior to examination. Entry of the Preliminary Amendment prior to examination is respectfully requested. The Examiner is invited to contact the undersigned at the telephone number listed below if such a call would in any way facilitate examination of the application.

Respectfully submitted,

KINNEY & LANGE, P.A.

By: 

Jeffrey D. Shewchuk, Reg. No. 37,235
THE KINNEY & LANGE BUILDING
312 South Third Street
Minneapolis, MN 55415-1002
Telephone: (612) 339-1863
Fax: (612) 339-6580

JDS:alg

09/289,324

**APPENDIX:
MARKED UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS**

1. (Amended) An intramedullary nail for treatment of a fracture of a bone having a medullary canal extending longitudinally, comprising:
- a nail structure extending longitudinally and formed of metal, the nail structure having a distal end with a tip for insertion into the medullary canal and a proximal end opposite the distal end, with a first window defined in an exterior side of the distal end of the nail structure, the first window having a first window longitudinal length and a first window width not equal to the first window longitudinal length; and
- a first spacer formed of a non-metal material within the first window.
3. (Amended) The intramedullary nail of claim 1, wherein the nail structure further comprises:
- a second window defined in an exterior side of the distal end of the nail structure opposing the first window permitting bicortical attachment with a bone fastener through the first and second windows, the second window having a second window longitudinal length and a second window width not equal to the second window longitudinal length.
10. (Amended) The intramedullary nail of claim 1, [wherein the first window is in a distal end of the nail structure, and] wherein an additional bone attachment hole is defined in a proximal end of the nail structure.

11. (Amended) The intramedullary nail of claim 1, [wherein the first window is in a distal end of the nail structure, and] wherein the nail structure includes an opening longitudinally spaced from the first window and in the distal end of the nail structure.

12. (Amended) The intramedullary nail of claim 1, wherein the non-metal material of the first spacer is a bioresorbable material;

wherein the first window longitudinal length is greater than the first window width;

[wherein the first window is in a distal end of the nail structure;]

wherein the nail structure further comprises:

a second window defined in an exterior side of the nail structure opposing the first window permitting bicortical attachment with the bone fastener through the first and second windows, the second window having a second window longitudinal length and a second window width less than the second window longitudinal length;

a bend such that a longitudinal axis of the nail structure lies within a bisecting plane, wherein the first window and the second window are symmetrically disposed on opposing sides of the bisecting plane;

a nail structure cannula defined longitudinally in the nail structure;

a through-hole defined through the distal end of the nail structure and longitudinally spaced from the first and second windows; and

an additional bone attachment hole defined in a proximal end of the nail structure; and

wherein a bioresorbable insert provides the first spacer, the bioresorbable insert further providing a second spacer, the first spacer filling the first window and the second spacer filling the second window prior

09289324-10-11

to anchoring a bone fastener through the first and second windows; and

wherein an insert cannula is defined through the bioresorbable insert and aligned with the nail structure cannula.

09/289,324